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NEXT COPP MEMBER MEETING

Monday
June 10, 2002 at 7:00 pm
Legend Trail
Community Center
 (see directions on page 4)

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The Runoff Election – A New Day

It was unfortunate that only one of the two candidates in the runoff election for the City Council could succeed. We recommended your support of Councilman George Zraket because he was the reform candidate who, over the past four years provided a new voice for the people of Scottsdale. He was the lone voice for the first two years and part of a minority together with Councilmen O’Hearn and Silverman for the last two.

George was a controversial figure in Scottsdale politics because he spoke clearly and said what he had in his heart and mind. That’s not very political, but refreshing in an age when the truth is rare and decisions are made with personal ambition in mind. In the end, it was this candor and an unrelenting search for the truth and open government that was his undoing. Not by those who understood and appreciated his sometimes controver-

sial approach to governing, but by those who sought his defeat because he asked tough questions and moved the business of government out of the private meeting rooms into the Kiva where it belongs.

George will be missed. At the same time, we are pleased that two of the three candidates we endorsed will sit on the Scottsdale City Council for the next four years. Wayne Ecton is well qualified for this responsibility and the voters recognized his credentials. We thought Bob Littlefield was equally qualified when we recommended him to our members and we think so now. In the runoff election we endorsed George Zraket over Bob, because he was an experienced, known quantity, and we felt that he had earned a second term in office. Both Bob and Wayne are to be congratulated for their civic commitment and we wish them success with their new responsibilities.

(see “Runoff” on page 3)

June Calendar of Events

| | |
|---------|---|
| June 4 | City Council hears and possibly takes action on “Quiet Skies” Initiative |
| June 5 | FAA Northwest 2000 Town Hall meeting 6:00 - 8:00 pm, Legend Trail Community Center |
| June 10 | COPP Member Meeting – On the Agenda: • Scottsdale Transportation Manager John Little and Scottsdale Airport Officials with an update on FAA Northwest 2000 |
| June 18 | City Council hears Conditional Use Permit Text Amendment (for details see article on page 5 in this issue of the <i>COPP News</i>) |
| June 24 | City Council Work Study Session on Canal Bank Development Options |

COPP’s mission is to educate the public and hold government officials accountable to the public on any issue that poses a threat to neighborhoods, the environment, and fiscal responsibility.

City of Scottsdale – FAA Northwest 2000 Plan Update

*By Kevin Shirer
Planning & Environmental Coordinator
Scottsdale Airport*

The FAA implemented the Northwest 2000 (NW2000) Plan routing and airspace revisions on February 21, 2002. As part of the City's aggressive ongoing efforts to obtain balanced regional air traffic, Scottsdale has been monitoring the NW2000 Plan implementation and evaluating results in a cooperative effort with the citizen groups, pilot organizations, the City of Phoenix and the FAA.

The City of Scottsdale is continuing a technical dialog with local and regional FAA personnel and pilot groups to evaluate potential changes. While constrained by litigation, the FAA has been receptive and has committed to reviewing suggested changes from the City and pilot groups.

The FAA has indicated that with the current airspace assignments, options for significant changes to current conditions are limited without creating an undue burden to one community, or creating unacceptable impacts to safety or airspace capacity. As a result, the City anticipates that changes may be developed over time, however, significant revisions to the new NW2000 routes are not expected without a regional "clean sheet" airspace re-design.

The City has learned the following information from consultation with the City of Phoenix and FAA, reviewing radar flight track data and receiving significant input from citizens and pilots.

1. The pre-NW2000 Plan condition generated significant complaints regarding Sky Harbor traffic over central and east Scottsdale. Complaints of this type were significantly reduced after the NW2000 Plan implementation.
2. The commercial airliner arrival route over east Scottsdale was shifted east of Fountain Hills.
3. The new northbound Silow route has reduced the amount of airliner departures heading northwest over Scottsdale, and those remaining northwesterly flights have been at higher average altitudes, although the higher summer temperatures will decrease aircraft climb performance somewhat.
4. The FAA has not fully implemented the RNAV "automated" flight procedures and are still using "classic" procedures using radar vectoring, however, they expect to slowly implement the RNAV procedures over the next six to nine months.
5. Radar vectoring will continue due to the safety and traffic needs within the busy terminal environment, however, RNAV

implementation may converge some of the dispersed flight paths over time.

6. The most significant change from NW2000 has been the implementation of the Silow departure route used by both Sky Harbor and satellite airports. Both commercial and satellite traffic now fly over the north central valley in a northeasterly direction when Sky Harbor is operating on west-flow. Previously this traffic flew in a west-to-east direction over north central Scottsdale on the previous Eagul route. While on east-flow, Sky Harbor traffic on the new Silow route does not fly over the north central valley. Departures from Scottsdale airport on the Silow route are lower than the Sky Harbor traffic on the same route because Sky Harbor traffic has a greater distance in which to reach a higher altitude before flying over the north valley
7. General Aviation traffic (small aircraft and helicopters operating under Visual Flight Rules [VFR]) has not been significantly impacted by the NW2000 Plan implementation. Radar tracks for pre-NW2000 and post-NW2000 show significant numbers of low-altitude VFR aircraft over all valley communities, with no significant changes in flight corridors or altitudes.

(see "NW2000 Update" on page 3)

NW2000 Update (continued from page 2)

8. Scottsdale Airport traffic routes have changed and have resulted in several negative effects. The details of the Scottsdale Airport traffic changes were not disclosed in the NW2000 Plan Draft EA or Final EA documents (nor were the details required to be disclosed as the EA process only addresses commercial airliner traffic).
9. Generally in the north valley, Scottsdale airport traffic is initially limited to the airspace just north and south of the airport that is located between the busy Sky Harbor arrival and departure tracks that obstruct airspace to the east and west.
10. The amount of jet traffic using the southern arrival route was inadvertently increased by procedural changes by Kansas City and Albuquerque Center, which has increased the amount of jets arriving from the south and flying northward over Sky Harbor to reach Scottsdale Airport. Corrections to FAA Center procedures may reduce the inadvertent shift of traffic using the southern arrival route.
11. The satellite airport arrival route was shifted approximately two miles to the west (from approximately the Pima Road alignment to approximately the Scottsdale Road alignment.)

Recap of Previous Scottsdale Efforts:

1. It was Scottsdale that initially stepped up to the plate with resources, technical expertise, and leadership to begin the regional discussions regarding balanced, technically feasible alternatives that would help to mitigate the impacts of NW2000 on all involved communities.
2. Scottsdale was the first community to investigate and extract information about proposed NW2000 Plan, three months prior to the release of the FAA draft Environmental Assessment (EA) document.
3. Scottsdale hired a technical airspace consultant to assist in developing technically feasible alternatives and an aviation legal consultant to assist in developing legal strategies.
4. Scottsdale led the regional discussions regarding balanced technically feasible alternatives that do not overly impact one community to another's benefit.
5. Scottsdale was the only community to propose an alternative route protecting Scottsdale and other east valley communities, prior to the release of the NW2000 draft EA.
6. Scottsdale was a primary source of information to citizens through City Council briefings, community meetings, E-mail alerts and

distributing the EA document via a user-friendly website.

7. Scottsdale conducted five public information workshops to inform citizens prior to release of the NW2000 draft EA.
8. Scottsdale provided technical expertise and leadership among the valley communities to develop a regional Community Consensus Alternative.
9. Scottsdale coordinated regional lobbying efforts with Washington legislators, FAA Western Pacific Region and FAA Headquarters in Washington.
10. Scottsdale has been actively monitoring the implementation of the NW2000 routes for compliance with the Final Record of Decision.
11. Scottsdale has been lobbying the FAA to implement the planned RNAV routes as quickly as possible and make refinements, when possible, for noise abatement.
12. Scottsdale has continued a dialog with the FAA and will continue to inform them of citizen concerns regarding noise and perceived safety issues.
13. Scottsdale is committed to working on air traffic issues in the future.

Runoff (continued from page 1)

So, what will the political landscape look like in the future? We believe that it bodes well to have Councilmen Ecton, Littlefield, O'Hearn and Silverman as our leaders and that the new Council holds the promise of a new day in Scottsdale politics. All four of have displayed a desire to preserve the unique qualities that have given our city world renown.

Importantly, the vote of the electorate repudiates the vision put forth by the Scottsdale Area Chamber and others who would have the city move in the direction of higher densities, taller buildings and looser zoning regulations. That speaks of a new beginning for Scottsdale residents who value the open vistas and uniqueness of our city.

The Board of Directors

Joint City/School Ordinance Proposed

Scottsdale Residents are invited to comment on a draft ordinance that will promote more effective land use planning between the city and school districts that serve the Scottsdale community on Wednesday, June 5 from 5:30 to 7 p.m. in the first floor conference room of One Civic Center, 7447 E. Indian School.

The ordinance, which is modeled after a similar ordinance that was adopted by the City of Glendale, will require that developers who are increasing the number of homes beyond what is currently zoned, contact the appropriate school district to find out if there are adequate school facilities to serve the proposed development. The draft ordinance is tentatively slated for Planning Commission review in July and City Council review in September.

Development Updates

City Council to Consider Changes to The Use Permit Revocation Process

On January 8, 2002, the City Council acted favorably on the petition filed by COPP seeking changes to the conditional use permit process in Scottsdale. We asked that the City's ordinances be revised to require that use permits be made subject to revocation by the Council rather than to the unreviewable judgment of one member of staff and possible subsequent action of the appointed Board of Adjustment, as is the situation today. The system proposed by COPP (revocation hearings by the exact same body that granted the use permit) is fair and equitable and, according to the staff report for our petition, also is the most common approach to this issue in other Valley municipalities as well.

The Council unanimously agreed to this request and noticed hearings to amend the text of the Zoning Ordinance to accomplish this purpose. The Planning Commission hearing is now scheduled for June 12, 2002. A date for the Council hearing and vote has yet to be set. We will keep you apprised of any changes in these dates. This is an important case seeking a rather obvious correction to the Ordinance in the public interest. But it is now being challenged by special interest landowners threatening "serious legal implications" who do not want the Council to have these powers and instead insist that they remain exclusively with staff and unelected political appointees.

Use permits allow landowners to build gas stations, auto repair shops, cemeteries, commercial stables, adult uses, hospitals, live entertainment venues, cell towers, health care facilities, teen dance centers, storage structures, seasonal arts festivals, outdoor vehicle displays, tennis clubs, charter schools, ball field lights, and other kinds of prescribed uses that are otherwise not allowed in the zoning districts where they are located. These permits are completely discretionary (by definition, no one has a right to such uses) and are granted with the express permission of the City Council after public hearings and subject to the specific conditions prescribed by the Council. Revocations of those use permits for violations, on the other hand, are now handled by unilateral staff recommendations to the Board of Adjustment, which consists of seven political appointees, and not by the Council itself, although it has the legal authority to do so. That system is unfair to residents and neighborhoods. That's why COPP filed its petition in the first place.

Not surprisingly, historical research documented in the staff report on COPP's petition could not find any use permits that had been revoked by this appointed board for any reason. Under the present system, anyone dissatisfied with the decision of the Board of Adjustment is relegated to an expensive appeal to Maricopa County Superior Court, where the legal presumption the judge is required to follow is that the government decided the case correctly and the unhappy citizen is wrong. The elected body that granted the permit is never allowed to

(see "Updates" on page 5)

Updates (continued from page 4)

examine claims that the owner broke the very promises it made to the Council (and thus to the public as well) to get the permit in the first place. COPP believes this system is unfair to neighbors and that political appointees of past councils should not continue to wield quasi-judicial power over the lives of those affected by demonstrated abuses of the use permits.

Under state law, a city can establish a board of adjustment to decide requests for variances and to issue interpretations of the city's own Zoning Ordinance. Revocations of conditional use permits are not even mentioned in the state statute. Years ago, under previous regimes with different political philosophies, Scottsdale created its Board of Adjustment and gave it those powers. But those powers can now be taken away from the appointed Board and restored to the Council itself, where they rightfully belong. Who is really in the better position to decide what the Zoning Ordinance means and whether an applicant violated the express terms of its use permit – the elected Council or seven political appointees with no particular professional qualifications of any kind whatsoever?

COPP's proposed text amendment has been attacked by a zoning lawyer for landowners with use permits who claims that her clients' permits are "vested property rights" that cannot be taken away. That claim is false. Section 1.301 of the Scottsdale Zoning Ordinance states unambiguously that "[c]onditional use permits may be approved, amended or revoked." Use permits are "conditional" by definition, which means they are not permanent but can be revoked for violations.

Virtually every city and town in Arizona has procedures for revoking conditional use permits. The only issue presented by our petition is who should do that – the elected body that granted the permit in the first place, or an appointed body that is not accountable to the public for its decisions and that according to the staff report on our petition has never found cause to revoke any permit for any reason.

On June 5, 2002, the Scottsdale Board of Adjustment is scheduled to meet to review the proposed text amendment and plans to vote on "comments" it intends to offer the new City Council to show why it should retain the legal authority to revoke use permits that it apparently has never bothered to exercise. Of course, you wouldn't know about this meeting by visiting the Board's web page – its agendas are six months out of date! Frankly, we believe it is rather unseemly for political appointees of past councils to offer legal advice to the current Council arguing that their retention of discretionary power granted by the Council years ago somehow is more important than the public's right to insist that the conditions of use permits are honored by their holders. Please let the Council know what you think about the Board's unsolicited "advice" and whether you agree that the body that grants and amends use permits in the public interest after full public hearings also should be the proper body to revoke those permits when they are violated, as is the case in many other communities. For a city like Scottsdale to leave those crucial decisions to staff and political

appointees who have never seen fit to exercise that delegated authority is a surprising policy that should be changed in the public interest.

Henry Becker's "Artwork" and Trailers

The City had Mr. Becker in court on two occasions during the past few weeks to have the cowboy poles, sheds (City Court – April 25) and trailers (Superior Court – May 14) removed from his property on Pima and Happy Valley Roads. In each case, the court heard the arguments on both sides and then said that a decision would be rendered in July or thereabouts.

It is unfortunate that such a blatant violation of city codes can linger for so long while it wends its way through the courts – this has been going on for almost a year. But, since Mr. Becker is asserting First Amendment rights to justify his actions, it understandable that the courts do not want to act precipitously when it comes to a free speech defense.

We will continue to monitor progress with the city and inform you of any new developments.

Legend Trail Community Center directions:

North on Pima Road past Lone Mountain (1.5 miles)

To Legend Trail Parkway on right – then 1.5 miles on right to Community Center.



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COPP's mission is to educate the public and hold government officials accountable to the public on any issue that poses a threat to neighborhoods, the environment, and fiscal responsibility.

I support COPP's mission and would like to join COPP. Your membership and/or donation is greatly appreciated.

Annual Membership \$50 per household Donation of \$ _____ I would like to volunteer

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 Work (_____) _____
 Fax (_____) _____
 E-mail _____

Alternate Address

Address _____
 City _____ State _____ Zip _____
 Phone (_____) _____
 Fax (_____) _____
 Start Date _____ End Date _____

In what neighborhood/HOA do you live? _____

In which city do you vote? _____

Comments/Suggestions _____

Office Use Only

06/02

Have a question? Call the COPP Hotline at: 602.230.5233 or E-mail us at: COPPeak@coppeak.org
 Make your check payable to COPP. Please return this form and your check to:
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